

State of California



Fair Political Practices Commission

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March 27, 1984

Emerson Hall
District Superintendent
Keppel Union School District
3511B North 82nd Street East
Littlerock, CA 93543

Advice Letter No. A-84-064

Dear Mr. Hall:

This letter is to confirm my oral advice to you. You stated that you are the District Superintendent for the Keppel Union School District. As your question concerns a third party's responsibilities under the Act, I can only provide you with general advice.

FACTS

Your District employs both a husband and wife as teachers. The wife is also the president of the teachers' union, a position for which she is not compensated. The husband is running for a position on the School Board.

QUESTION PRESENTED

Does the Political Reform Act prevent the husband from assuming a position on the School Board?

GENERAL DISCUSSION

The Political Reform Act does not prevent an individual from assuming a governmental position. However, you should check with your City Attorney or the District Counsel to see if any

other law might restrict a teacher from holding a position on the School Board. The Act may affect an official's decisionmaking. Government Code Section 87100^{1/} prohibits a local public official from making, participating in the making, or in any attempting to use his official position to influence a decision^{2/} in which he knows or has reason to know that he has a financial interest. An official has a "financial interest" in a decision if it is reasonably foreseeable that the decision will have a material financial effect^{3/} on:

* * *

(c) Any source of income . . . aggregating two hundred fifty dollars (\$250) or more in value provided to . . . the public official within 12 months prior to the time when the decision is made....

(Section 87103(c).)

Under the Act, an official's private employer becomes a source of income. In addition, his spouse's private employer normally becomes a "source of income" because the official has a community property interest in his spouse's income. (Section 82030.) However, if the official or his spouse is employed by a local government entity, such as a school district, the salary received is not considered to be "income" under the Act. (Section 82030(b)(2).) Therefore, the official's disqualification is not required on decisions materially affecting either the governmental entity, or the salary of the employee or his or her spouse.

^{1/} Hereinafter all statutory references are to the Government Code, unless otherwise indicated.

^{2/} For the definitions of these phrases, see the enclosed copy of 2 Cal. Adm. Code Section 18700.

^{3/} For an explanation of the phrase "material financial effect," see the enclosed copy of 2 Cal. Adm. Code Section 18702.

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If I can provide you with any additional information, please
feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh
Enclosures